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YORUBA TRADITIONAL ADJUDICATORY SYSTEMS

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ABSTRACT I present a review of the adjudicatory systems in place in Yorubaland before and during the colonial era of 1914 to 1960. During this period, Yorubaland had three tiers of government, and there was a structured judicial system, which was not, however, strictly formal. Nevertheless, these seemingly informal courts served their purpose very well. In this context, the people were able to retain their sense of identity: they truly believed that blood was thicker than water. They shared in the woes and successes of their kith and kin, as well as in the fortunes and misfortunes of everyone around them.

Key Words: Adjudicate; Arbitrate; Case; Court; Cult; Kinship and law.

INTRODUCTION

Before the colonialists pummeled their way into the land unified in 1914 by Lord Fredrick Lugard and later named Nigeria, there had been a system of arbitration in Yorubaland. The Yoruba people had ways of settling their civil and criminal cases, by means of an institution as old as the history of the Yoruba people themselves. More specifically, dispute settlement, as an institution, constitutes a human device for monitoring the structure of a particular society and maintaining its status quo (North, 1991). Such institutions could comprise both formal and informal constraints, which could be in the form of sanctions, speech rights, taboos, customs, or mores. Where such an institution is formal, the constraints will come in the form of laws, property rights, and constitutions. Institutions help guide and control interpersonal relationships. Judicial institutions are the primary means of achieving such control, and they are the focus of this paper.

It is impractical to present a general review of Yoruba judicial and political systems in a single paper, which is why Lloyd (1971) opined that it would be possible to write several volumes on comparative political systems, drawing almost all of the examples from Yoruba. This assertion hinges on the fact that, although the Yoruba claim a common progenitor, namely Oduduwa, their judicial and political systems vary slightly from one subgroup to another.

Notable among the research performed on Yoruba ways of life are the studies of Daramola & Jeje (1967), which focused on customs and deities, and Adeoye (1980), which focused on culture and mores. However, neither of the two studies addressed in detail the Yoruba adjudicatory systems. Bascom (1965) used a cultural anthropological approach in the area of legal systems among the Yoruba, but concentrated on the Ife (Ile-Ife) Yoruba subgroup and did not mention any other subgroup. Here, we present a review of the judicial institutions

in place in Yorubaland before the introduction of the modern-day judiciary systems.

There is a wide array of potential methodologies for studies of this nature, but we have adopted a basic historical survey. Consequently, the data were collected from both primary and secondary sources. The primary sources included elderly men in *Oba*'s court in Ago-Iwoye and Oru-Ijebu (two towns in Ogun State, Nigeria) who were asked prepared, open-ended questions. The secondary sources consisted of textbooks, journals, and other publications. This strategy allowed me to examine the historical origin, growth, development, and remnants of the mediating systems among the Yoruba.

Today, the Yoruba live in three distinct regions: at home in Western Nigeria; in other West African countries, such as the southeastern Benin Republic and Togo; and outside of Africa, especially in South America, the West Indies, and Cuba (Diaspora). This review focuses on the Yoruba in their home region of Nigeria.

The land occupied mainly by the Yoruba today lies within latitude 6^{o} and 9^{o} north and longitude $2^{o}30'$ and $6^{o}30'$ east. It shares a common boundary with Niger State to the northwest and the Benin Republic to the east. The Atlantic Ocean forms the southern border. The Yoruba are found principally in the state of Oyo, Ogun, Ondo, Lagos, Kwara, Osun, Ekiti, Edo, and some parts of Kogi. The area's fertile tropical forests cover about 181,300 square kilometers and, according to the 2006 census, their population is about 30 million people (The Nation, 2007: 1).

YORUBA TRADITIONAL POLITICAL AND JUDICIAL STRUCTURES

Before the arrival of white colonialists, Yorubaland had a highly developed three-tier government structure made up of the executive, legislature, and judiciary branches. The *Oba* (King), who was the supreme head of the government, was an absolute ruler in theory. He was *Kabiyesi* (who should we ask/challenge?): his authority was not to be challenged by any of his subjects. He was considered the representative of *Olodumare* (God Almighty). But in practice, the *Oba* ruled in conjunction with his *Igbimo* (Council of Chiefs), without which there was no government, and no executives. There were two types of chiefs: the palace chiefs and the town chiefs (*Igbimo*). Each *Igbimo* member represented a quarter/ward (*Adugbo*) in the town. Collectively, and in collaboration with the *Oba*, they developed laws when necessary. Strictly speaking, there was no need to prescribe formal laws as deterrents against asocial behavior, because everybody accepted implicitly that any departure from the behavior approved by the deities (*Imale*) and the ancestors (*Osi*) was punishable. Thus, when laws were promulgated by the king and his council chiefs, the laws were invariably given a divine sanction (Offiong, 1991). However, the enforcement of laws did not rest solely on them. It was also the civic duty of the chiefs of various grades in specific towns and villages to enforce laws. In Ile-Ife (the Yoruba

considered Ile-Ife the first town created by God; Adeoye, 1980), for instance, *Olomode* Ife (Ife youths) were the public enforcement officers. They had underground dungeons (*gbere*) where they kept criminals awaiting trial or execution (Bascom, 1965).

Each Yoruba principality was divided into hierarchical units, each under the jurisdiction of an appropriate chief. The *Oba* and his *Igbimo* were the overarching rulers. Directly under them was the *Adugbo* (quarter), headed by an *Olori Adugbo* or *Olori Itun*, whose appointment was ratified and approved by the *Oba*. Below this stratum was the *Agbo-Ile* (extended family compound), headed by an *Olori Ebi* (head of the extended family). The lowest unit was the individual nuclear home, headed by *Baba* (father). The appointment of the *Olori Ebi* was the sole responsibility of his extended family members, because the oldest member of the extended family usually assumed this position. The approval of the *Oba* was never sought in the matter, and every married man was the father in his own home. Because the family was the basic unit of society, it is expedient to recognize it as the fundamental unit of the society's administration as well as a judicial unit. In other words, legal and political control was exercised mainly via the family and extended kin groups. A Yoruba family was comprised of father, mother, and children. Each position had very carefully defined household duties, and each household member played a significant part in social control by socializing children and motivating them to conform to social order and norms. The stratified social structure can be illustrated as follows.

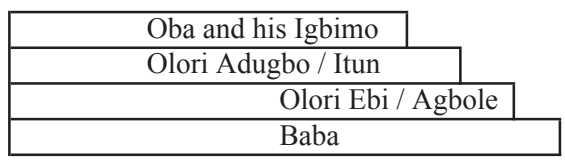

Fig. 1. Yoruba Political Structure.

As the head of the nuclear family, the Baba's pronouncements were final. He settled quarrels among his family members and maintained discipline. When there was a quarrel, he might settle it or pass it to the *Olori Ebi*, depending on the nature and seriousness of the issue.

The Yoruba operated both a segmentary lineage group and centralized kingdoms with elaborate bureaucratic and legal systems. Their sense of the legal system was not based on Western concepts and standards. By implication, there were neither units nor offices that coincided closely with Western judicial systems. Kinship affinity was strong, and it regulated behavior and allowed individuals to know his/her limits. Internecine fighting was not common, and they recognized rules of conduct. These rules were often sufficiently obeyed for an individual to know what he/she was entitled to, and could expect from other members. Therefore, the descent group was a knot of collective legal responsibility, *vis-à-vis* the higher judicial authority of the kingdom. Kinship was the

bond of union. The need to provide social security and justice for large families often accounted for the institutional emphasis on the solidarity of a kinship group. It involved the acceptance of responsibility and obligations to the group to the extent that individuals were seen, primarily, as members of their particular families before they were understood as members of society at large.

The *Olori Ebi* presided over the settlement of quarrels among his kinsmen. His "court" was an informal one that only dealt with civil cases involving members of his extended family. He settled civil cases and sanctioned the guilty either by imposing a fine (*oji*) or simply by making them give a verbal apology, especially if the person was a child or "wife of the family." The affinal term *oko* (husband) referred to a woman's husband and all the members of his clan, including female clan members. The term *iyawo* (wife) referred to a man's wife and all the wives of his clansmen (Daramola & Jeje, 1967; Bascom, 1965). No one man, therefore, married a wife to himself only. His wife was considered "a wife of the family." The man was the husband at night and other members of the clan acted as husbands during the day. But if a quarrel involved a member of the extended family and others outside of it, the case might be transferred to the *Olori Adugbo* for arbitration. However, the extended families involved might come together to settle the matter. An appeal from the *Olori Ebi*'s "court" might also be entertained at the *Olori Adugbo*'s court.

The *Oba* recognized the *Olori Adugbo*'s court, and enjoyed the approval and support of the *Oba*. The *Olori Adugbo* tried all civil matters within his quarter. He handled preliminary hearings in criminal cases without actually resolving them. Criminal cases were handled at the *Oba*'s court. The idea of classifying cases into either civil or criminal existed among the Yoruba, and a criminal was called *odaran*. To be considered odaran, one had to commit a heinous offense that could not easily be settled or dismissed as trivial. Such cases included homicides, treason and felony, burglary, accidental or provoked manslaughter, assault, and rape, while civil cases included willful damage of property, quarrel, insult, debt, and other offenses. Because the *Olori Adugbo*'s court enjoyed the approval of the *Oba*, it could sanction, fine, and even ostracize the guilty from the ward or even the town after receiving the approval of the *Oba* and his *Igbimo*. The punishment given to a guilty party depended largely on the offense. Bascom (1965: 45) asserted that "murder, treason and burglary were normally punished by execution." Accidental or provoked manslaughter and assault were punished by a fine, for instance, and a person guilty of assault could be flogged. Rape, seduction, and adultery were punishable by a fine.

The main objective of adjudication among the Yoruba and some Nigerian tribes was to reach a decision that would be accepted as fair by both parties, so that the dispute could be resolved. This is why the Ibibio and Igbo peoples of Eastern Nigeria would expect an accused person to invite one of his/her maternal uncles as a partaker in the adjudication (see Offiong, 1984; 1991). But if an acceptable adjudication could not be reached at the *Olori Adugbo*'s court, either party could appeal to the *Oba*'s court, the apex of the administrative and judicial system. A closer look at the Yoruba language reveals that the term *Ile*

Ejo, or "house of cases" (court), existed during the Yorubaland precolonial era.

There is no society in which rules are automatically obeyed, and every society has a means of securing obedience and dealing with offenders. The society in question decides what is legal and what is not. But there is no absolute universal code of legality. Societies have their legal standards that cannot and should not be transferred for an appraisal of another society. What is legitimate depends on the culture and cultural standards of the people. Every rule a people or its majority accepts as binding is legal (Otubu, 1999). Certainly, age had both prestige and power (Eades, 1980), for it was the older people who knew and passed on the ways of the community to the younger ones. This was why arbiters were usually older people with experience. Theirs was the council that made laws for the people. Radcliffe-Brown (1952: 181) has described the concept of law as follows:

> The application of direct or indirect penal sanctions…the settlement of disputes and the provision of just satisfaction for injuries.

It does not follow, therefore, that to have a law, a group of people must have courts and judges. Radcliff-Brown, however, does not give the name law to what he considers "regulated vengeance" in which the community/state fights one of its members because the member has injured another member of the society, as in criminal laws.

In line with his narrow view of law, Radcliffe-Brown (1952: 120) defines political organization as:

> That part of the total organization which is concerned with the maintenance of establishment of social order within a territorial framework by the organized exercise of coercive authority through the use, or the possibility of use of physical force.

If his assertion is correct, governments nowadays do little more than maintain order.

The concept of law can be seen as a specific mode of social action, one that is not only distinct from morality, but also irreducible to the idea of social control. Legal reasoning can be distinguished from the processes associated with arbitration and mediation, which could be considered the settlement of disputes of categorizing concepts that define justifiable norms. Custom is indeed the source of law: custom is law itself.

The concept of law can be considered an inclusive rubric for all rules of conduct or, more narrowly, rules enforced by a specific and limiting procedure. If defined in narrow Western legalistic terms, as recognized by a court or as social control via the systematic application of force by politically organized society, the existence of law is denied the Yoruba people. This said, they have maintained order through various mechanisms at various levels. May this not be

considered a form of law enforcement, especially if we consider Malinowski's viewpoint?

Bottomore (1972), in expressing Malinowski's view, asserted that the so-called primitive societies of the world were conversant with the rules of law and other norms and traditions such as morals, manners, and rules of craftsmanship. Regarding a number of Nigerian tribes, especially the Ibibio and Igbo, Ofiong (1991: 39) reported that:

> There is no lawmaking in the ordinary sense of the laws as deterrents against behaviour that offends collective conscience, because everybody accepts implicitly that departure from the social norms socially approved by the deites and spirits as well as ancestors is likely to incur the displeasure and vengeance of the ancestors. When emergency "laws" are promulgated by the elders' council, such laws are invariably given a divine sanction.

However, in Yorubaland, the *Oba* and his chiefs and Ogboni promulgated the laws.

If the *Oba* and his *Igbimo* passed judgment, no one dared appeal it. Anyone who did was considered a rebel. The due punishments depended on the nature of the crime. It was the only court that could impose capital punishment. Cases could be heard in public or tried behind closed doors in the court. The council's sanction was usually based on a real rather than putative consensus of the community. However, a consensus had to be obtained among the adjudicating chiefs. The Yoruba were concerned with elements of reconciliation as well as blame. Blame was not paramount. In most Yoruba towns, difficult criminal cases that involved important dignitaries were not tried openly. They were usually passed to the Ogboni or Osugbo cult, and the decision of the cult was final whether it was approved by the *Oba* or not (Ijagbemi, 1973).

In practice, the *Oba* could arrest, punish, or even impose capital punishment on his subjects without trial. But this power was exercised with caution, and only very sparingly, otherwise it could result in a backlash. An example of such a case was that of the historical Alaafin Aole and the Baale of Apomu. The Alaafin gave judgment on vindication and was himself killed. The *Oba* was expected to pass cases that would attract capital punishment to the Ogboni cult, to which he and his *Igbimo* statutorily belonged.

Very little is known about the Ogboni, because all of their adjudicating was done in the secrecy of their *Iledi* (conclave). Only initiated members could be privy to these secrets, and these privileged members never talked in public about cases. Akere (1984) claimed that the subject of "Ogbonism" and the influence it had throughout the Yoruba sociocultural world was highly significant, but that written materials on this topic are scants and incomplete, thereby preventing erudite and exhaustive research. It is important to note, in this respect, that the present study had many hindrances. First, the initiates interviewed were not ready to divulge their secrets to a non-initiate. Some of them even said that they were bound by an oath of secrecy: *Wiwo lenu awo n wo* (the initi-

ates must never divulge the secret of the cult). Furthermore, research into the Ogboni by initiates such as Justice A.P. Anyebe ended in "knocking fruitlessly at a sealed seamless steel wall" (Anyebe, 1989: 22). The secrecy that surrounds the Ogboni cult is not unique. The Vatican has a similar air. Bull (1982: 110), quoting Rev. Fr. De Ried Malxen, has noted:

> We don't lie at the Vatican,
> But we don't always tell

Nevertheless, some of the mysteries must be unveiled if one is to understand Yoruba traditional institutions, especially the judiciary system, before and during the colonial era.

Awolalu & Dopamu (1979: 226), who claim not to be members of the Ogboni cult, asserted that the Ogboni were, largely, a political organization established for the purpose of maintaining law and order in Yoruba towns. Its political power was extensive. Members met often in their Iledi to settle civil disputes, deal with criminal cases, and discuss general matters that concerned the well-being of the community. They were also the kingmakers who monitored and curbed the excesses of *Oba* who might otherwise become tyrannical.

Anyebe (1989: 22) has noted that the Ogboni constituted the Town Council or the Council of State in the latter part of the 19th century. Its executive body or cabinet consisted of six Ogboni chiefs known as Iwarefa (the just six). They were the Oluwo, Lisa, Aro, Odofin, Iya Abiye (mother), and Apena (the secretary of the cult). Consequently, what could be considered a court in Yorubaland was the Osugbo/Ogboni council. The Osugbo cult was a fraternity of chiefs and elders that was also the judicial arm of government. It also had a religious character in the symbol of a male and a female brass image known as *Edan*. Osugbo is the highest cult group in Yorubaland, and it commanded the respect and obedience of all (Sijuade, 2006). It had officials, titles, and ordered processes of investigation and judgment. Some members of the cult served as investigators. They performed functions similar to that of the Western police force.

In the late 19th century, the Ogboni constituted the highest tribunal in Yorubaland. The town of Abeokuta organized its court in such a way "that it included three Ogboni dignitaries: Oluwo, Apena and Asipa, as well as representatives of war leaders, traders' guilds, women's leaders, hunters and the chief Ifa priest" (Tamuno, 1978: 77), who themselves might be Ogboni members. The *Oba* served as the head of the trial process, and ratified their conclusions. Before this court, influential offenders and, at times, the *Oba* himself were tried. Murderers, highwaymen, arsonists, and those of committed treason were also tried before this court. "The *Oba*'s court, which used to have power of life and death, was scrapped in 1908 when the jurisdiction over homicide charges was removed from the purview of the *Oba*'s court and transferred to the Chief Justice in Lagos" (Tamuno, 1978: 75). Thus, the Ogboni/Osugbo can be viewed as having served a number of judicial, religious, and political functions, among

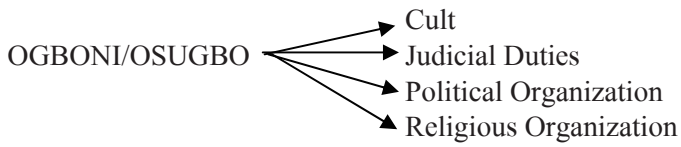

Fig. 2. The Functions of the Osugbo/Ogboni.

others, in Yorubaland. Although these functions were performed within the secrecy of their conclave, and it operated as a cult, it was not, in fact, a secret cult, because its members and the place and time of meetings were known to all. But non-initiates could not take part in their deliberations.

The *Oba*'s court in Yorubaland had lost much of its powers, which had largely "been passed to the Customary Courts and Local Administrations" (Awolalu & Dopamu, 1979: 227). It is important to note that, during those days, the Supreme Courts were like present-day High Courts. "Those were the years when magistrates and District Officers had the power to try murder cases" (Anyebe, 1989: 109). This was a time when "the court clerk could keep a litigant in temporary detention" (Adebayo, 1993: 49). To take over the power of administering justice from the *Oba* and his chiefs, the colonial powers established the Native Court Ordinance of 1914, which instituted hierarchically arranged grades of courts marked A, B, C, and D in descending order of judicial magnitude, as it is in the structure of the magistrate court today. The highest grades were presided over by the paramount chiefs or their representatives, while the lower ones were presided over by the less important chiefs, with British Colonial Officers playing leading roles. However, the composition of these courts met with prompt rejection in many areas. In theory, the native courts were supposed to have a fair measure of autonomy and initiative in matters of local administration. In practice, some of the native courts merely danced to the whims and caprices of the administrative officers (Ikuejubee, forthcoming).

Through the implementation of a provision in the Native Court Ordinance, the Native Authority Ordinance of Lugard's government conferred administrative and judicial responsibilities upon recognized *Oba* and Baale (Asiwaju, 1980: 113). However, a number of fairly well educated, but unworthy individuals were also given power. Pax Britannia had come. These courts were the predecessors of modern-day courts in Nigeria in general and in Yorubaland in particular.

TRADITIONAL YORUBA COURT MODEL

Peaceful coexistence and cohabitation was the watchword of the Yoruba. They believed in sharing everything, whether fortune or misfortune. A person was first a member of society before being understood as an individual. The Yoruba, therefore, tried to purge themselves of acrimony that might tear their society asunder (Ijagbemi, 1973). They joined hands together to cleanse the land when it was profaned (Driberg, 1934). As set out above, the Yoruba evolved

four court strata with the "ad hoc court" being the fifth. As a political unit, the village was recognized as the synonym of the town, as the village contained all of the political structures of the town.

As previously described, every married man was the head of his own immediate family and it was his duty to settle any disputes among family members promptly. It was said: *Agba kii wa loja, ki ori omo tuntun wo* (Where there are good elders, there is orderliness). He would listen to the accuser first, and then the accused would be allowed to present his or her own defense. The Yoruba believe that *A gbo ejo eti kan da, agba osika ni* (He who gives judgment after listening to one side of a case is an unjust elder). Witnesses, if any, might be called. The head of the family would try to be as fair as possible to both parties involved, and would not identify a party as guilty and the other as innocent. This was not the case with the settlement of civil cases among the Yoruba. In such cases, either of the two parties could have overreacted in some way. Invariably, neither could be absolved of blame. However, one party might be seen as guiltier than the other. The mediator would tell both parties where they had behaved badly, and otherwise. After telling each party its fault, he would then settle the case either by asking the guiltier one to apologize to the other, less guilty party, or simply warn them both to desist from bad habits that might breed bad blood. That was how a civil case was usually settled. But if one party was not satisfied with a settlement, he or she could appeal to the *Olori Ebi*'s "court" by simply reporting the case to him.

The *Olori Ebi* was usually the oldest man in an extended family. Members of the same extended family built their houses around their progenitors' compound. The extended family members might be bound by blood or marriage. The Yoruba regarded blood as sacred; they aimed never to do anything that might adversely affect a blood relation or kinfolk. To them, blood was clearly thicker than water. If any member of the family profaned the "common blood" (alajobi), the family would come together to appease the common progenitors (Akiwowo, 1980). The *Olori Ebi*'s "court" served as the "court of appeal" to the nuclear family's "court." In this "court," every adult, married or single, had the right to be present and contribute to the discussion. The *Olori Ebi* was the "judge." He would try to be fair to both parties, and only passed judgment based on the contributions of all present.

The accuser or appellant would state the grievances and call witnesses, and the accused and his or her witnesses would follow suit. During the presentation of their cases, each presenter had to squat (male) or kneel (female) as a show of respect to the elders. After listening to both sides, the *Olori Ebi* would invite the adult members of the family present to comment on the evidence before them. It was the *Olori Ebi*'s duty to summarize the contributions of the mediators and settle the case. The adjudicator's comments might be contributions of facts or questions to establish facts. A dinner party sometimes followed the settlement to restore the mutual love within the family. Libations were poured to appease their progenitors before they themselves consumed any food or drink (Olaoba, 1997).

Civil cases fell within the purview of the *Olori Ebi*'s "court." A civil case that involved members of two or more extended families would be transferred to the *Olori Adugbo*'s court. Each *Adugbo* (quarter) was made up of many *Agbole* (compounds) that may or may not have been related by blood or marriage. The *Olori Adugbo* was the representative chief of his ward in the *Oba*'s court. He enjoyed the approval and recognition of the *Oba* and reserved the right to conduct preliminary investigations in criminal cases. He could pass judgment on subtle criminal cases such as theft, adultery, and sometimes witchcraft. All appeal cases from the *Olori Ebi*'s "court" were passed to his court. He was normally supposed to pass judgment in conjunction with some *Olori Adugbo* whose members were not parties to the case at hand. Every member of the quarter or outside it might make up the audience in this "court."

As it was in the *Olori Ebi*'s "court," case presentation was done either kneeling down (female) or squatting (male). No one presented a case sitting down or standing up. Everyone was required to show deference to the elders. Case presentation in the quarter head's court was no different. After listening to the litigants and their witnesses, every adult present had the right to cross-examine either the witnesses or the litigants. Their main target was the amicable settlement of the case, and the quarter heads summarized the contributions of the other adults present. He would have the final say: *Enu agba lobi ti n gbo* (Elders have the final say). The *Olori Adugbo* had the right to fine the guiltier party, while the party considered less guilty might be set no punishment. However, during the colonial era, both parties were fined: each was expected to pay some amount of money to the coffers of the town, with the guiltier party paying more.

Any appeals from the *Olori Adugbo*'s court were addressed by the *Oba*'s court. The *Olori Adugbo* would definitely be a member of the *Oba*'s court, as a chief in the town, but he would have to allow the other chiefs to adjudicate on cases that came from his quarter. He usually introduced the parties involved in the case. The *Oba* gave judgment after listening to the litigants and to the contributions of his chiefs. Whatever judgment was given was final, except when a judgment was given in a town under the governance of another, superior town. The aggrieved litigant could appeal to the court of their sovereign king.

Generally speaking, the method of conducting trials in Yoruba courts was informal, and varied with circumstances. For instance, the marketplace or the *Oba*'s palace was used as the court site. This is why the marketplace was always located in front of the *Oba*'s palace. In the trial of a criminal case that did not involve a dignitary, the accused and the accuser were physically present. The accuser would charge the accused in person, and the accused would give his or her own defense. Members of the *Igbimo* would subject both parties to examination. Witnesses would be called. After serious deliberation on the case, the most senior chief, or at times the *Oba* himself, would sum up the decisions. If there were no witnesses, or the facts of the case were not well established, the accused would be left to his or her conscience. The person might, however, be sworn to oath or exposed to an ordeal. In general, belief in

the magical efficacy of oath could be pretty well guaranteed. After the oath had been administered, the matter was left to the judgment of the gods of the land, whom the people believed would bring misfortune to those who perjured themselves.

Taking an oath was no mere solemn assertion of telling "the truth, the whole truth, nothing but the truth", which is a feature of the Western court; it was a self-imprecation, charged with punishing powers. It was taken on the names of some dreaded gods or sacred objects charged as magical phenomena symbolizing the kind of punishment the oath taker wanted to befall him if he swore falsely. The individual's society would exonerate the oath taker and fully integrate him back into society if no misfortune befell the person after a short period. But if any misfortune befell the oath-taker soon after the swearing, he would be pronounced guilty and society would condemn him.

A very striking feature of Yoruba judicial dispensation was the leniency with which female criminals (apart from witches) were treated. A woman was seldom formally arraigned before an *Oba*'s court on a criminal charge. If she committed a crime, say theft, she might be sent to her husband or father to be summarily reprimanded. The husband might simply divorce her, and the matter ended there. However, if she was accused of witchcraft, she might be tried by the *Oba*/*Ogboni* court or handed over to the Polo deity, who was believed to be an impartial judge of witches. If guilty, "she could be stoned to death or decapitated" (Meek, 1971: 270), or forced to drink *obo* (sasswood). In fact, the most heinous crime a woman could be charged with was witchcraft.

More often than not, a case that involved an important personage or the *Oba* himself was passed to the Ogboni cult. Usually, before the report and subsequent judgment, that important personality might have been punished through rumor, gossip, and songs. He was also sometimes physically attacked. A good example of such communal manhandling was the attack on Basorun Gaa of the Old Oyo Empire. The probability was that the Ogboni listened to and handled the trial, as it was in the open courts. Whatever judgment was arrived at by the Ogboni cult was usually final, because most of the chiefs were members of the cult. If an *Oba* was found guilty of a heinous crime or his rule became tyrannical and unpopular, he might be tried by the Ogboni. The trial would not give the *Oba* the opportunity to defend himself. He might face mob action, in which his subjects would demonstrate outside the palace walls; the chiefs would meet at the palace gate, send word to the king that he was no longer wanted, and subsequently refuse to answer his call. When this happened, the *Oba* was expected to "open the calabash," a euphemistic way of telling the *Oba* to commit suicide. The calabash contained a powerful charm made of parrot's eggs. It was taboo for any *Oba* to do this and survive. It amounted to sure death for the *Oba*.

Besides the court types mentioned above, disputes could be adjudicated instantly when they happened in a public setting (Bascom, 1965). Such instant adjudication is referred to here as "street ad hoc court." The mediating elder(s) might or might not know the parties involved in the quarrel. The Yoruba

believe that *Agba kii wa loja kori omo tuntun wo* (He who gives judgment after listening to one side of a case is an unjust elder). Civil cases were usually treated immediately after they had happened. But a criminal case could be transferred to the *Oba*'s court for adjudication. Should it be a criminal case, it was the duty of the elder present to pacify the aggrieved party, protect the accused from mob action, and refer the case to the *Oba* for appropriate action. A simple civil case, such as a fight during which neither injury nor loss of life occurred, was usually settled by the elder(s) present. No fine would be awarded and no guilty one identified. The purpose of such dispute settlement was not to discover who was really guilty or innocent, but reconciliation. Each party could be considered responsible in some way, and the faults of each would be pointed out and the matter amicably settled. Verbal admonition was taken as enough punishment for the guiltier party.

CONCLUDING REMARKS

In this study we examined the various political–judicial systems that existed among the Yoruba before the arrival of white colonialists, with their administrative and judicial structures. The Yoruba developed a hierarchical administrative system in which the Baba governed his immediate family, the *Olori Ebi* was the head of his extended family, and the *Olori Adugbo* headed his quarter, while the *Oba* together with his *Igbimo* governed all the towns within his domain.

We also observed the various levels at which cases were treated, and the type of cases that could be handled at each social stratum. Baba settled quarrels among his wives and children; the *Olori Ebi* mediated civil cases within his extended family; the *Olori Adugbo* handled civil and mild criminal cases; and the *Oba* addressed civil cases that occurred between two or more quarters, and heinous criminal cases within his domain. The Ogboni cult was a judicial element that handled cases involving the *Oba* or any important dignitaries. Considering this complex structure, it is clear that the Yoruba had developed both informal and formal courts. Those of the Baba and *Olori Ebi* were informal, while those of the *Olori Adugbo* and *Oba* were formal.

Suffice it to say that good neighborliness was important to Yoruba society, generally, in civil cases, and not justice per se; invariably, the Yoruba looked for means of amicable settlement rather than capitalizing on who was right or wrong. In civil cases, no one litigant was ever considered guilty or innocent. Yoruba preferred stances of "guiltier" and "less guilty." In criminal issues, cases were often proved and the guilty ones identified and subsequently punished, no matter who they were. It is our candid opinion that if the Yoruba had been left to live according to their customs and traditions, their communities would generally have been more peaceful. It would not have been a remonstrance-free society, but peace and tranquility would have prevailed. It is our opinion that the vicissitudes of judicial and political life in Yorubaland ensued from the white slavers and, subsequently, the colonialists.

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